

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ALLSTATE INDEMNITY COMPANY	§	1:18-CV-0040-LG-RHW
	§	
VS.	§	
	§	
LASHONDA JOHNSON, RENA DAVIS and	§	
TRIDGET DAVIS	§	

**ANSWER AND AFFIRMATIVE DEFENSES TO ALLSTATE INDEMNITY
COMPANY'S COMPLAINT FOR DECLARATORY JUDGMENT**

COMES NOW, Defendant, Tridget Davis, through undersigned counsel, in response to Allstate Indemnity Company's Complaint for Declaratory Judgment files this *ANSWER AND AFFIRMATIVE DEFENSES TO ALLSTATE INDEMNITY COMPANY'S COMPLAINT FOR DECLARATORY JUDGMENT*, and shows unto the Court, the following, to wit:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief may be granted insofar as it seeks to advance a cause of action based upon Illinois law.

SECOND DEFENSE

Allstate has not and does not deny coverage for the allegations contained in Plaintiffs' state court *Complaint for Damages (Jury Trial Requested)*, docket number 20108-0050-CICI, filed and pending in Leflore County Circuit Court, in Leflore County, Mississippi, where the accident that forms the basis of that litigation occurred.

THIRD DEFENSE

Allstate asserts the collision as described in the pending State Court litigation "did not

occur under the circumstances claimed by the **Defendants**.” [Id., Para. 11, Allstate Indemnity Company’s *Complaint for Declaratory Judgment* (Dkt. #1) [Emphasis added.].

FOURTH DEFENSE

On or about April 19, 2018, a representative for Allstate Indemnity Company, informed the office of undersigned counsel that Allstate had investigated the underlying accident, took the examination under oath of Lashonda Johnson, and denied the claim citing ‘discrepancies in the loss’ due to Allstate’s inability to verify the accident happened as alleged after looking at prior claims. Jody Gilley/Allstate Indemnity Company recommended undersigned counsel call Allstate attorney, Bobby Stephenson, Esq., which he did. Bobby Stephenson, Esq., advised the “adjustor” [Jody Gilley] had made a suggestion of fraud/impropriety and that he had taken the examination under oath of Lashonda Johnson over a year ago.

FIFTH DEFENSE

No evidence or disclosure of any inappropriate or improper conduct or participation in any inappropriate or improper conduct by Tridget and Rena Davis has been received by undersigned counsel. See also **EXHIBIT A**, *in globo* attached hereto and incorporated by reference herein.

SIXTH DEFENSE

Allstate Indemnity Company has not sustained any damage.

SEVENTH DEFENSE

Allstate Indemnity Company should have paid the claim when the amount of the claim was known.

AND NOW, Tridget Davis responds to each consecutively numbered paragraph of Allstate Indemnity Company's *Complaint for Declaratory Judgment*:

1.

The allegations contained in Paragraph 1 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein.

2.

The allegations contained in Paragraph 2 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are admitted.

3.

The allegations contained in Paragraph 3 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied.

4.

The allegations contained in Paragraph 4 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are admitted.

5.

The allegations contained in Paragraph 5 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied.

6.

The allegations contained in Paragraph 6 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied.

7.

The allegations contained in Paragraph 7 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein. The terms and conditions of the policy, in its entirety, is the best evidence of its contents.

8.

The allegations contained in Paragraph 8 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein. The terms and conditions of the policy, in its entirety, is the best evidence of its contents.

9.

Admitted.

10.

The allegations contained in Paragraph 10 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied as written. The allegations contained in Plaintiffs' state court *Complaint for Damages (Jury Trial Requested)*, docket number 20108-0050-CICI, and are the best evidence of its own contents.

11.

The allegations contained in Paragraph 11 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein.

12.

The allegations contained in Paragraph 12 of Allstate Indemnity Company's *Complaint for*

Declaratory Judgment are denied for lack of information sufficient to justify a belief therein. The terms and conditions of the policy, in its entirety, is the best evidence of its contents.

13.

The allegations contained in Paragraph 13 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied.

14.

The allegations contained in Paragraph 14 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied; the terms and conditions of the policy, in its entirety, is the best evidence of its contents.

15.

The allegations contained in Paragraph 15 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein.

16.

The allegations contained in Paragraph 16 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied; the terms and conditions of the policy, in its entirety, is the best evidence of its contents.

17.

The allegations contained in Paragraph 17 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein.

18.

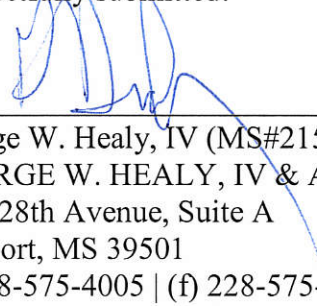
The allegations contained in Paragraph 17 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied for lack of information sufficient to justify a belief therein.

19.

The allegations contained in Paragraph 19 of Allstate Indemnity Company's *Complaint for Declaratory Judgment* are denied.

WHEREFORE, premises considered, Defendant, Tridget Davis prays that this answer and defenses be deemed good and sufficient, and that after due proceedings are had, that there be judgment in his favor, and against Plaintiff, dismissing this suit with prejudice, with Allstate to bare all costs, and for all such other and further relief to which Defendant may in law and in justice be entitled to receive.

Respectfully submitted:



George W. Healy, IV (MS#2154/LA#14991)
GEORGE W. HEALY, IV & ASSOCIATES
1323 28th Avenue, Suite A
Gulfport, MS 39501
(t) 228-575-4005 | (f) 228-575-4006

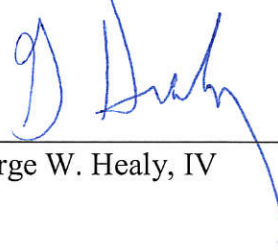
**ATTORNEY FOR DEFENDANT,
TRIDGET DAVIS**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically via CM/ECF to Participants, and to non-CM/ECF participants via ☐ U.S. Mail; ☐ Facsimile; ☐ electronically; and/or ☐ Hand Delivery, this 5th day of February 2019, to the following:

Robert R. Stephenson, Esq.
Wilkins Patterson
4735 Old Canton Road, Ste. 1089
P. O. Box 13429 (39236-3429)
Jackson, Mississippi 39211

Lashonda Johnson
2414 30th Street
Gulfport, Mississippi 39038



George W. Healy, IV

GEORGE W. HEALY IV & ASSOCIATES
LAW OFFICES

GEORGE W. HEALY IV*
*LICENSED IN MISSISSIPPI
AND LOUISIANA

JACOB TRAMONTIN
ASSOCIATE ATTORNEY
**LICENSED IN MISSISSIPPI
AND LOUISIANA

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FAX: (228) 575-4006
EMAIL: gwhealyiv@aol.com

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(504) 524-3223

CATHERINE LEARY†
OF COUNSEL
†LICENSED IN LOUISIANA ONLY

May 4, 2018

Robert R. Stephenson, Jr., Esq.
Wilkins Patterson Smith Pumphrey & Doty
4735 Old Canton Rd., Ste. 108 (39211-5527)
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Jackson, MS 39236-3429
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Fax: (601) 981-7608
Email: rstephenson@wilkinspatterson.com

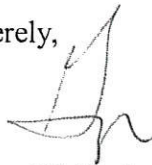
RE: Tridget Davis and Rena Davis
Date of Accident: December 4, 2016
Insured: Lashanda Johnson
Policy Number: 000810629308
Claim Number: 0438140246 QJG
File Number(s) - 170037.1 & 170037.2

Dear Bobby:

Please provide a copy of the materials Allstate has reviewed in association with these claims.

With kind regards, I am

Sincerely,



George W. Healy, IV

GWH/hp



Company:	Robert R Stephenson Jr Wilkins Patterson Smith Pumphrey & Doty
Admit Date:	09/30/1997
Physical Address:	4735 Old Canton Rd Ste 108 Jackson, MS 39211-5527
Mailing Address:	P O Box 13429 Jackson, MS 39236-3429
Phone:	(601) 366-4343
Fax:	(601) 981-7608
Email:	bstephenson@wilkinspatterson.com
Status:	Active

TRANSACTION REPORT

MAY/07/2018/MON 10:19 AM

FAX (TX)

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LAW OFFICES

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AND LOUISIANA**JACOB TRAMONTIN**ASSOCIATE ATTORNEY
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EMAIL: gwhealyiv@aol.com**NEW ORLEANS OFFICE******1515 POYDRAS STREET, SUITE 1050
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(504) 524-3223**CATHERINE LEARY†**OF COUNSEL
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May 4, 2018

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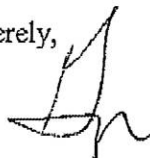
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May 29, 2018

Robert R. Stephenson, Jr., Esq.
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Jody Gilley
ALLSTATE INDEMNITY COMPANY
Claims Capital Nashville SIU Louisiana
P. O. Box 660328
Dallas, Texas 75266-0328
Facsimile: (866) 430-5917

RE: Tridget Davis and Rena Davis
Date of Accident: December 4, 2016
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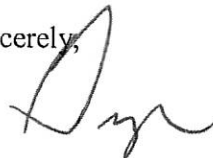
Dear Mr. Stephenson & Ms. Gilley:

I have had the opportunity to meet with my clients, who have advised me there was an independent witness to the above-referenced accident, who saw the deer run into the road and actually called 911.

We will request the 911 records, and will provide you with the name and telephone number of the witness.

With kind regards, I am

Sincerely,



George W. Healy, IV

GWH/hp

TRANSACTION REPORT

MAY/29/2018/TUE 11:29 AM

FAX (TX)

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GEORGE W. HEALY, IV & ASSOCIATES
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(504) 524-3223**CATHERINE LEARY+**
OF COUNSEL
+LICENSED IN LOUISIANA ONLYDate: 5-29-18No. of Pages (including this sheet): 2

Please Deliver To:

Robert R. Stephenson, Jr., Esq.

Telecopier Number:

601-981-7608

FROM

Sender:

Terela Campbell, Legal AssistantTelecopier Number: 228-575-4006

Reference:

Tridget & Rena Davis

Our File Number:

Message:

Please see attached correspondence from
George W. Healy, IV & Associates

Sincerely yours,

George W. Healy, IV & Associates

By: GC

TRANSACTION REPORT

MAY/29/2018/TUE 11:27 AM

FAX (TX)

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GEORGE W. HEALY, IV & ASSOCIATES
LAW OFFICESGEORGE W. HEALY, IV*
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1615 POYDRAS STREET, SUITE 1050
NEW ORLEANS, LA 70170
(504) 524-3223CATHERINE LEARY+
OF COUNSEL
+LICENSED IN LOUISIANA ONLYDate: 5-29-18No. of Pages (including this sheet): 2

Please Deliver To:

Jody Gilly

Telecopier Number:

866-436-5917

FROM

Sender:

Tereha Campbell, Legal AssistantTelecopier Number: 228-575-4006

Reference:

Tridget & Bern Davis

Our File Number:

Message:

Please see attached correspondence from
George W. Healy, IV & Associates.

Sincerely yours,

George W. Healy, IV & Associates

By: GH

GEORGE W. HEALY IV & ASSOCIATES

LAW OFFICES

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CATHERINE LEARY†

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September 17, 2018

Robert R. Stephenson, Jr., Esq.
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Jody Gilley
ALLSTATE INDEMNITY COMPANY
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P. O. Box 660328
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Facsimile: (866) 430-5917

RE: Tridget Davis and Rena Davis
Date of Accident: December 4, 2016
Insured: Lashanda Johnson
Policy Number: 000810629308
Claim Number: 0438140246 QJG
File Number(s) - 170037.1 & 170037.2

Dear Mr. Stephenson & Ms. Gilley:

We have not received the 911 records, but the the name and telephone number of the witness is:

Warren Jones
(662) 897-9382

Please call me to discuss this matter further. Thank you.

Sincerely,


George W. Healy, IV

GWH/hp

TRANSACTION REPORT

SEP/17/2018/MON 12:58 PM

BROADCAST

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TOTAL				0:01:00	2		

GEORGE W. HEALY IV & ASSOCIATES

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 P. O. Box 660328
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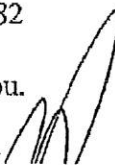
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MICHELE CUMBERLAND
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CATHERINE LEARY
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October 4, 2018

Robert R. Stephenson, Jr., Esq.
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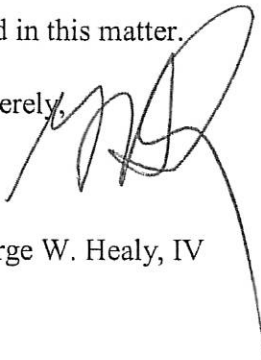
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Facsimile: (866) 430-5917

RE: Rena Davis and Tridget Davis vs. LaShonda Johnson
Cause No. 2018-0050-CICI Leflore County Circuit Court, Mississippi
File Number(s) - 170037.1 & 170037.2

Dear Mr. Stephenson & Ms. Gilley:

Attached is a courtesy copy of the *Complaint* filed in this matter.

Sincerely,


George W. Healy, IV

GWH/hp: Attachment

cc: Rena Davis
Tridget Davis

TRANSACTION REPORT

OCT/04/2018/THU 10:47 AM

BROADCAST

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TOTAL				0:02:59	14		

GEORGE W. HEALY IV & ASSOCIATES

LAW OFFICES

GEORGE W. HEALY IV
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AND LOUISIANA

MICHELE CUMBERLAND
ASSOCIATE ATTORNEY
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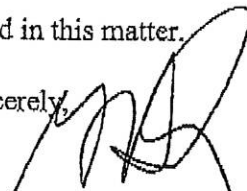
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P. O. Box 660328
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Sincerely,



George W. Healy, IV

GWH/hp: Attachment

cc: Rena Davis
Tridget Davis

VERNIS & BOWLING

ATTORNEYS AT LAW • EST. 1970

582 LAKELAND EAST DRIVE, STE. C FLOWOOD, MS 39232 • TELEPHONE: 601-500-5927 • FACSIMILE: 601-500-5957

Corinne Day
cday@mississippi-law.com

January 9, 2019

Elmus W. Stockstill
Leflore County Circuit Clerk
P. O. Box 1953
Greenwood, MS 38935-1953

Re: *Rena Davis and Tridget Davis v. LaShonda Johnson*; In the Circuit Court of Leflore
County, Mississippi; Cause No. 2018-0050

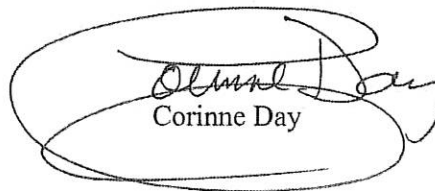
Dear Mr. Stockstill:

Enclosed please find the original and one copy of *Defendant's Motion to Compel* for filing in the above referenced matter. Once filed, please return the copy stamped "filed" in the enclosed envelope.

Thank you for your kind assistance in this matter.

Sincerely,

VERNIS & BOWLING OF MISSISSIPPI, PLLC


Corinne Day

:cd
Enclosures

cc: George W. Healy IV, Esq.

170037
SCANNED
JAN 14 2019

DELAND, FL
FORT MYERS, FL
HOLLYWOOD, FL
ISLAMORADA, FL

JACKSONVILLE, FL
KEY WEST, FL
MIAMI, FL
NORTH PALM BEACH, FL

PENSACOLA, FL
ST. PETERSBURG, FL
TAMPA, FL
BIRMINGHAM, AL
MOBILE, AL

ATLANTA, GA
GULFPORT, MS
JACKSON, MS
CHARLOTTE, NC
COLUMBIA, SC

WWW.NATIONAL-LAW.COM

IN THE CIRCUIT COURT OF LEFLORE COUNTY, MISSISSIPPI

RENA DAVIS and TRIDGET DAVIS

PLAINTIFFS

VS.

CIVIL ACTION NO. 2018-0050

LASHONDA JOHNSON

DEFENDANT

**DEFENDANT, LASHONDA JOHNSON'S MOTION TO COMPEL
PLAINTIFFS' ANSWERS TO DISCOVERY**

COMES NOW, Defendant, Lashonda Johnson, by and through counsel and files this her *Motion to Compel Plaintiffs' Answers to Discovery* and in support thereof would show the Court the following to-wit:

1. That on or about October 15, 2018, Defendant served a true and correct copy of the Defendant's First Set of Interrogatories and First Set of Requests for Production of Documents to Plaintiffs, Rena Davis and Tridget Davis. *See* Defendant's Notice of Service of Discovery attached as "*Exhibit A*."

2. On November 28, 2018, Defendant sent Plaintiff a good faith letter requesting the responses to Defendant's First Set of Interrogatories and Requests for Production of Documents. *See* Defendant's "*Exhibit B*."

3. Rule 34 of the *Mississippi Rules of Civil Procedure* states that the party upon whom the Requests of Production of Documents have been served shall serve a copy of discovery responses within 30 days after the service of said Interrogatories and Requests for Production of Documents. Plaintiff has failed to serve a copy of their written responses to Defendant's First Set of Interrogatories and First Set of Requests for Production of Documents, along with a signed and notarized HIPAA Authorization and Employment Records Authorization, within the time limits set by the Rule.

4. Rule 37 of the *Mississippi Rules of Civil Procedure* allows a party to apply for an Order Compelling discovery when a party fails to fully respond to Requests for Production of Documents under *Mississippi Rules of Civil Procedure*.

5. The Defendant, through counsel, has made a good faith attempt to confer with Plaintiff's counsel to secure discovery responses without Court action.

6. The Defendant has incurred attorneys' fees and Court costs due to Plaintiff's failure to adequately respond to discovery.

WHEREFORE, PREMISES CONSIDERED, the Defendant, Lashonda Johnson, respectfully moves this Court to enter its Order compelling Plaintiffs, Rena Davis and Tridget Davis, to fully respond to Defendant's First Set of Interrogatories and Requests for Production of Documents, to serve upon Defendant HIPAA Authorizations and Employment Records Authorizations executed by Plaintiffs, awarding all attorney fees and court costs to the Defendant, and for any other relief this Court deems necessary and proper.

RESPECTFULLY SUBMITTED, this the 7th day of January, 2018.

LASHONDA JOHNSON, DEFENDANT

BY:


J. SCOTT ROGERS

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